



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2009 REGULAR SESSION

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HOUSE BILL NO. 295

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THURSDAY, FEBRUARY 26, 2009

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The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

AN ACT relating to public school facilities.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔Section 1. KRS 157.420 is amended to read as follows:

2        Public school funds made available to the credit of each district during any year shall be  
3        received, held, and expended by the district board, subject to the provisions of law and  
4        administrative regulations of the Kentucky Board of Education. The following restrictions  
5        shall govern the expenditure of funds from the public school fund:

- 6        (1) The salary paid any rank of teachers shall be at least equivalent to the amount set  
7        forth in the biennial budget schedule for each rank and experience for a term of one  
8        hundred eighty-five (185) days for full-time service during the regular school year.
- 9        (2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall  
10       not approve any working budget or salary schedule for local boards of education for  
11       any school year unless the one hundred eighty-five (185) day salary schedule for  
12       certified staff has been adjusted over the previous year's salary schedule by a  
13       percentage increase at least equal to the cost-of-living adjustment that is provided  
14       state government workers under the biennial budget. The base funding level in the  
15       program for support education excellence in Kentucky as defined in KRS 157.320  
16       shall be increased by the statewide dollar value of the annual required cost-of-living  
17       percentage adjustment that shall be estimated on the sum of the previous year's  
18       statewide teachers' salaries.
- 19       (3) A district that compensates its teachers or employees for unused sick leave at the  
20       time of retirement, pursuant to KRS 161.155, may create an escrow account to  
21       maintain the amount of funds necessary to pay teachers or employees who qualify  
22       for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of  
23       the maximum liability for the current year to be determined according to the number  
24       of staff employed by the district on September 15. Interest generated by the account  
25       shall be calculated as part of the total amount. The funds shall not be used for any

1 purpose other than compensation for unused sick leave at the time of retirement and  
 2 shall not be considered as part of the general fund balance in determining available  
 3 local revenue for purposes of KRS 157.620.

4 (4) (a) The per pupil capital outlay allotment for each district from the public school  
 5 fund and from local sources shall be kept in a separate account and may be  
 6 used by the district only for capital outlay projects approved by the chief state  
 7 school officer in accordance with requirements of law, and based on a survey  
 8 made in accordance with administrative regulations of the Kentucky Board of  
 9 Education. These funds shall be used for the following capital outlay  
 10 purposes:

11 1.[(a)] For direct payment of construction costs;

12 2.[(b)] For debt service on voted and funding bonds;

13 3.[(c)] For payment or lease-rental agreements under which the board  
 14 eventually will acquire ownership of a school plant;

15 4.[(d)] For the retirement of any deficit resulting from overexpenditure for  
 16 capital construction, if such deficit resulted from an emergency declared  
 17 by the Kentucky Board of Education under KRS 160.550; and

18 5.[(e)] As a reserve fund for the above-named purposes, to be carried  
 19 forward in ensuing budgets.

20 (b) A district may submit a request to the commissioner of education to use  
 21 funds from the per pupil capital outlay allotment to purchase land for a new  
 22 school or to modify an existing school if the project is included on the  
 23 district facility plan for completion within eight (8) years. The land shall not  
 24 be included in the calculation of the school district's unmet need. The  
 25 commissioner may grant or deny the district's request at his or her  
 26 discretion.

27 (c) A district which has experienced an increase in adjusted average daily

attendance, as defined by administrative regulation, of twenty percent (20%) or more over a five (5) year period may submit a request to the commissioner of education to use capital outlay funds for the operation of a new school for the first two (2) years following its opening. The commissioner may grant or deny the district's request at his or her discretion.

(d) A local school district may submit a request to the commissioner of education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance without forfeiting the district's participation in the School Facilities Construction Commission program. Maintenance requests may include other priorities that are not considered major renovations, such as repair, renovation, or system upgrades that are necessary to maintain the integrity of an existing school facility.

(5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:

- (a) The energy conservation measures shall include facility alteration;
- (b) The energy conservation measures shall be identified in the district's approved facility plan;
- (c) The current facility systems are consuming excess maintenance and operating costs;
- (d) The savings generated by the energy conservation measures are guaranteed;
- (e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
- (f) The equipment that is replaced shall have exceeded its useful life as

1 determined by a life-cycle cost analysis.

2 (6) If any district has a special levy for capital outlay or debt service that is equal to the  
 3 capital outlay allotment or a proportionate fraction thereof, and spends the proceeds  
 4 of that levy for the above-named purposes, the chief state school officer under  
 5 administrative regulations of the Kentucky Board of Education, may authorize the  
 6 district to use all or a proportionate fraction of its capital outlay allotment for  
 7 current expenses. However, a district which uses capital outlay funds for current  
 8 expenses shall not be eligible to participate in the School Facilities Construction  
 9 Commission funds, except when the current expenditures are approved by the  
 10 commissioner of education under subsection (4)(b) or (c) of this section.

11 (7) If a survey shows that a school district has no capital outlay needs as shown in  
 12 ~~[paragraphs (a), (b), (c), and (d) of]~~ subsection (4)(a)1., 2., 3., and 4. of this section,  
 13 upon approval of the chief state school officer, these funds may be used for school  
 14 plant maintenance, repair, insurance on buildings, replacement of equipment,  
 15 purchase of school buses, and the purchase of modern technological equipment,  
 16 including telecommunications hardware, televisions, computers, and other  
 17 technological hardware to be utilized for educational purposes only.

18 (8) In surveying the schools, the Department of Education shall designate each school  
 19 facility as a permanent, functional, or transitional center.

20 (a) "Permanent center" means a center which meets the program standards  
 21 approved by the Kentucky Board of Education, is located so that students are  
 22 not subjected to an excessive amount of time being transported to the site, and  
 23 has established an attendance area which will maintain enrollment at capacity  
 24 but will also avoid overcrowding.

25 (b) "Functional center" means a center which does not meet all the criteria  
 26 established for a permanent facility, but is adequate to meet accreditation  
 27 program standards to insure no substantial academic or building deficiency.

1 The facility plan shall include additions and renovations necessary to meet  
 2 current accreditation standards for which federal, state, and local funds may be  
 3 used.

4 (c) "Transitional center" means a center which the local board of education has  
 5 determined shall no longer be designated permanent or functional. The center  
 6 shall be destined to be closed and shall not be eligible for new construction,  
 7 additions, or major renovation. However, the board of education shall  
 8 maintain any operating transitional center to provide a safe and healthy  
 9 environment for students.

10 (9) If a local school board authorized elementary, middle, or secondary education  
 11 classes in a facility of a historical settlement school on January 1, 1994, the board  
 12 shall continue to use the facilities provided by the settlement school if the facilities  
 13 meet health and safety standards for education facilities as required by  
 14 administrative regulations. The local school board and the governing body of the  
 15 settlement school shall enter into a cooperative agreement that delineates the role,  
 16 responsibilities, and financial obligations for each party.

17 ➔Section 2. KRS 157.440 is amended to read as follows:

18 (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school  
 19 years beginning after July 1, 1990, the board of education of each school  
 20 district may levy an equivalent tax rate as defined in subsection (9)(a) of KRS  
 21 160.470 which will produce up to fifteen percent (15%) of those revenues  
 22 guaranteed by the program to support education excellence in Kentucky. The  
 23 levy for the 1990-91 school year shall be made no later than October 1, 1989,  
 24 and no later than October 1, 1990, for the 1991-92 school year, and by  
 25 October 1 of each odd-numbered year thereafter. Effective with the 1990-91  
 26 school year, revenue generated by this levy shall be equalized at one hundred  
 27 fifty percent (150%) of the statewide average per pupil assessment.

- (b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities, or the purchase of land if approved by the commissioner of education as provided in subsection (4)(b) of Section 1 of this Act. The five cents (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS 160.470(9) and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents (\$0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.
- (c) The board of education of each school district may contribute the levy equivalent tax rate of five cents (\$0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:
1. Energy conservation measures shall include facility alteration;
  2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to KRS 157.420;
  3. The current facility systems are consuming excess maintenance and operating costs;

- 1           4.   The savings generated by the energy conservation measures are
- 2                guaranteed;
- 3           5.   The levy equivalent tax rate of five cents (\$0.05) and equalization funds
- 4                contributed to the energy conservation measures shall be defined as
- 5                capital cost avoidance as provided in KRS 45A.345(2) and shall be
- 6                subject to the restrictions on usage as specified in KRS 45A.352(9); and
- 7           6.   The equipment that is replaced has exceeded its useful life as determined
- 8                by a life cycle cost analysis.

9           (d)   The rate levied by a district board of education under the provisions of this  
10                subsection shall not be subject to the public hearing provisions of KRS  
11                160.470(7) or to the recall provisions of KRS 160.470(8).

12           (e)   A school district which is at or above the equivalent tax rates permitted under  
13                the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts  
14                ch. 476, shall not be required to levy an equivalent tax rate which is lower  
15                than the rate levied during the 1989-90 school year.

16   (2)   (a)   A district may exceed the maximum provided by subsection (1) of KRS  
17                160.470 provided that, upon request of the board of education of the district,  
18                the county board of elections shall submit to the qualified voters of the  
19                district, in the manner of submitting and voting as prescribed in paragraph (b)  
20                of this subsection, the question whether a rate which would produce revenues  
21                in excess of the maximum provided by subsection (1) of KRS 160.470 shall  
22                be levied. The rate that may be levied under this section may produce revenue  
23                up to no more than thirty percent (30%) of the revenue guaranteed by the  
24                program to support education excellence in Kentucky plus the revenue  
25                produced by the tax authorized by this section. Revenue produced by this levy  
26                shall not be equalized with state funds. If a majority of those voting on the  
27                question favor the increased rate, the tax levying authority shall, when the



1 next tax rate for the district is fixed, levy a rate not to exceed the rate  
2 authorized by the voters.

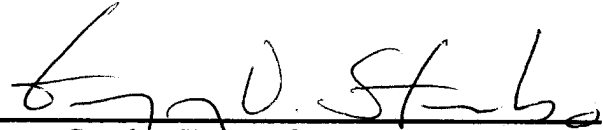
3 (b) The election shall be held not less than fifteen (15) or more than thirty (30)  
4 days from the time the request of the board is filed with the county clerk, and  
5 reasonable notice of the election shall be given. The election shall be  
6 conducted and carried out in the school district in all respects as required by  
7 the general election laws and shall be held by the same officers as required by  
8 the general election laws. The expense of the election shall be borne by the  
9 school district.

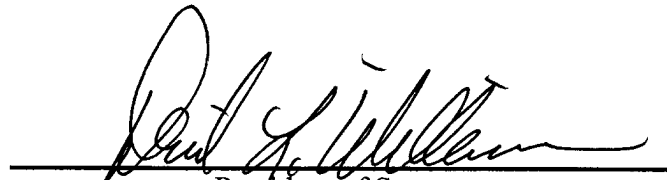
10 (3) For the 1966 tax year and for all subsequent years for levies which were approved  
11 prior to December 8, 1965, no district board of education shall levy a tax at a rate  
12 under the provisions of this section which exceeds the compensating tax rate as  
13 defined in KRS 132.010, except as provided in subsection (4) of this section and  
14 except that a rate which has been approved by the voters under this section but  
15 which was not levied by the district board of education in 1965 may be levied after  
16 it has been reduced to the compensating tax rate as defined in KRS 132.010, and  
17 except that in any school district where the rate levied in 1965 was less than the  
18 maximum rate which had been approved by the voters, the compensating tax rate  
19 shall be computed and may be levied as though the maximum approved rate had  
20 been levied in 1965 and the amount of revenue which would have been produced  
21 from such maximum levy had been derived therefrom.

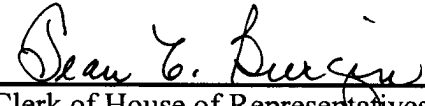
22 (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax  
23 rate shall be set lower than that necessary to provide such funds as are required to  
24 meet principal and interest payments on outstanding bonded indebtedness and  
25 payments of rentals in connection with any outstanding school revenue bonds issued  
26 under the provisions of KRS Chapter 162.

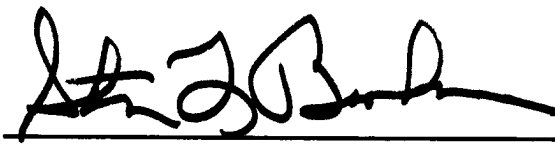
27 (5) The chief state school officer shall certify the compensating tax rate to the levying

1 authorities.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 3-20-04